

SENATE No. 726

The Commonwealth of Massachusetts

PRESENTED BY:

Steven A. Tolman

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act employee protection act.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Steven A. Tolman	Second Suffolk and Middlesex
Elizabeth A. Malia	11th Suffolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S01109 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT EMPLOYEE PROTECTION ACT.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 **SECTION 1.** Chapter 149 of the General Laws is hereby amended by inserting
2 the following new section:-- Section 188. A provision in any contract waiving any
3 substantive or procedural right or remedy relating to a claim of discrimination, retaliation,
4 harassment or violation of public policy in employment shall be deemed unconscionable,
5 void and unenforceable, with respect to any such claim arising after the waiver is made.
6 Such a right or remedy may not be prospectively waived to the extent that it arises under
7 this section, this chapter, chapter 151B, common law, any other provision of law or rule
8 of procedure, or the Constitution of the Commonwealth.

9 This section shall not render void or unenforceable the remainder of the contract
10 or agreement.

11 Whoever attempts to enforce a waiver deemed unconscionable, void, or
12 unenforceable under this section shall be liable for reasonable attorneys fees and costs.

13 No person shall take any retaliatory action, including but not limited to failure to
14 hire, discharge, suspension, demotion or other adverse action taken against an individual
15 in the terms and conditions of employment, because an individual has refused to enter
16 into an agreement or contract that contains a waiver deemed unconscionable, void, or
17 unenforceable under this section. An individual aggrieved of a violation of this section
18 may avail herself of the substantive and procedural rights and remedies contained in G.L.
19 c. 149, § 185(d). The rights and remedies contained herein are not exclusive, and are not
20 intended to preempt, and are not preempted by, other available procedures and remedies
21 for retaliatory actions such as those contained in G.L. c. 151B, §§ 4(4), 4(4A) and 4(5).

22 This section shall be construed liberally for the accomplishment of its purposes.
23 Nothing in G.L. c. 251 shall limit the operation of this section.

24 Nothing in this section shall expand or limit the use of collective bargaining
25 agreements.

26 This section shall apply to all claims arising after its effective date.